

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 240

Introduced by Assembly Member Bermudez
(Coauthors: Assembly Members Bogh, DeVore, Shirley Horton, and
Sharon Runner)
(Coauthor: Senator Margett)

February 7, 2005

~~An act to add Section 290.2 to the Penal Code, relating to sex offenders. An act to amend Section 3003 of the Penal Code, relating to parole.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 240, as amended, Bermudez. ~~Sex offenders Parole:~~ schools.

~~Existing law requires persons convicted of specified sex offenses to register with certain local authorities. Existing law prohibits persons placed on parole for convictions of certain sex offenses with minors from residing within ¼ mile of any public or private school with one or more grades of kindergarten through 8th grade.~~

~~This bill would prohibit a person convicted of any violation requiring registration as a sex offender from residing within 2 miles of any elementary or secondary school. A violation of this provision would be a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would prohibit a parolee convicted of one of these offenses from residing within the specified distance of any school with one or more grades of kindergarten through 12th grade.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 290.2 is added to the Penal Code, to~~
2 ~~read:~~

3 ~~SECTION 1. Section 3003 of the Penal Code is amended to~~
4 ~~read:~~

5 ~~3003. (a) Except as otherwise provided in this section, an~~
6 ~~inmate who is released on parole shall be returned to the county~~
7 ~~that was the last legal residence of the inmate prior to his or her~~
8 ~~incarceration.~~

9 ~~For purposes of this subdivision, “last legal residence” shall~~
10 ~~not be construed to mean the county wherein the inmate~~
11 ~~committed an offense while confined in a state prison or local jail~~
12 ~~facility or while confined for treatment in a state hospital.~~

13 ~~(b) Notwithstanding subdivision (a), an inmate may be~~
14 ~~returned to another county if that would be in the best interests of~~
15 ~~the public. If the Board of Prison Terms setting the conditions of~~
16 ~~parole for inmates sentenced pursuant to subdivision (b) of~~
17 ~~Section 1168, as determined by the parole consideration panel, or~~
18 ~~the Department of Corrections setting the conditions of parole for~~
19 ~~inmates sentenced pursuant to Section 1170, decides on a return~~
20 ~~to another county, it shall place its reasons in writing in the~~
21 ~~parolee’s permanent record and include these reasons in the~~
22 ~~notice to the sheriff or chief of police pursuant to Section 3058.6.~~
23 ~~In making its decision, the paroling authority shall consider,~~
24 ~~among others, the following factors, giving the greatest weight to~~
25 ~~the protection of the victim and the safety of the community:~~

26 ~~(1) The need to protect the life or safety of a victim, the~~
27 ~~parolee, a witness, or any other person.~~

28 ~~(2) Public concern that would reduce the chance that the~~
29 ~~inmate’s parole would be successfully completed.~~

30 ~~(3) The verified existence of a work offer, or an educational or~~
31 ~~vocational training program.~~

1 (4) The existence of family in another county with whom the
2 inmate has maintained strong ties and whose support would
3 increase the chance that the inmate's parole would be
4 successfully completed.

5 (5) The lack of necessary outpatient treatment programs for
6 parolees receiving treatment pursuant to Section 2960.

7 (c) The Department of Corrections, in determining an
8 out-of-county commitment, shall give priority to the safety of the
9 community and any witnesses and victims.

10 (d) In making its decision about an inmate who participated in
11 a joint venture program pursuant to Article 1.5 (commencing
12 with Section 2717.1) of Chapter 5, the paroling authority shall
13 give serious consideration to releasing him or her to the county
14 where the joint venture program employer is located if that
15 employer states to the paroling authority that he or she intends to
16 employ the inmate upon release.

17 (e) (1) The following information, if available, shall be
18 released by the Department of Corrections to local law
19 enforcement agencies regarding a paroled inmate who is released
20 in their jurisdictions:

21 (A) Last, first, and middle name.

22 (B) Birth date.

23 (C) Sex, race, height, weight, and hair and eye color.

24 (D) Date of parole and discharge.

25 (E) Registration status, if the inmate is required to register as a
26 result of a controlled substance, sex, or arson offense.

27 (F) California Criminal Information Number, FBI number,
28 social security number, and driver's license number.

29 (G) County of commitment.

30 (H) A description of scars, marks, and tattoos on the inmate.

31 (I) Offense or offenses for which the inmate was convicted
32 that resulted in parole in this instance.

33 (J) Address, including all of the following information:

34 (i) Street name and number. Post office box numbers are not
35 acceptable for purposes of this subparagraph.

36 (ii) City and ZIP Code.

37 (iii) Date that the address provided pursuant to this
38 subparagraph was proposed to be effective.

39 (K) Contact officer and unit, including all of the following
40 information:

1 (i) Name and telephone number of each contact officer.

2 (ii) Contact unit type of each contact officer such as units
3 responsible for parole, registration, or county probation.

4 (L) A digitized image of the photograph and at least a single
5 digit fingerprint of the parolee.

6 (M) A geographic coordinate for the parolee's residence
7 location for use with a Geographical Information System (GIS)
8 or comparable computer program.

9 (2) The information required by this subdivision shall come
10 from the statewide parolee database. The information obtained
11 from each source shall be based on the same timeframe.

12 (3) All of the information required by this subdivision shall be
13 provided utilizing a computer-to-computer transfer in a format
14 usable by a desktop computer system. The transfer of this
15 information shall be continually available to local law
16 enforcement agencies upon request.

17 (4) The unauthorized release or receipt of the information
18 described in this subdivision is a violation of Section 11143.

19 (f) Notwithstanding any other provision of law, an inmate who
20 is released on parole shall not be returned to a location within 35
21 miles of the actual residence of a victim of, or a witness to, a
22 violent felony as defined in paragraphs (1) to (7), inclusive, of
23 subdivision (c) of Section 667.5 or a felony in which the
24 defendant inflicts great bodily injury on any person other than an
25 accomplice that has been charged and proved as provided for in
26 Section 12022.53, 12022.7, or 12022.9, if the victim or witness
27 has requested additional distance in the placement of the inmate
28 on parole, and if the Board of Prison Terms or the Department of
29 Corrections finds that there is a need to protect the life, safety, or
30 well-being of a victim or witness.

31 (g) Notwithstanding any other law, an inmate who is released
32 on parole for any violation of Section 288 or 288.5 shall not be
33 placed or reside, for the duration of his or her period of parole,
34 within one-quarter mile of any public or private school including
35 any or all of kindergarten and grades 1 to ~~8~~ 12, inclusive.

36 (h) Notwithstanding any other law, an inmate who is released
37 on parole for an offense involving stalking shall not be returned
38 to a location within 35 miles of the victim's actual residence or
39 place of employment if the victim or witness has requested
40 additional distance in the placement of the inmate on parole, and

1 if the Board of Prison Terms or the Department of Corrections
2 finds that there is a need to protect the life, safety, or well-being
3 of the victim.

4 (i) The authority shall give consideration to the equitable
5 distribution of parolees and the proportion of out-of-county
6 commitments from a county compared to the number of
7 commitments from that county when making parole decisions.

8 (j) An inmate may be paroled to another state pursuant to any
9 other law.

10 (k) (1) Except as provided in paragraph (2), the Department of
11 Corrections shall be the agency primarily responsible for, and
12 shall have control over, the program, resources, and staff
13 implementing the Law Enforcement Automated Data System
14 (LEADS) in conformance with subdivision (e).

15 (2) Notwithstanding paragraph (1), the Department of Justice
16 shall be the agency primarily responsible for the proper release of
17 information under LEADS that relates to fingerprint cards.

18 ~~290.2. A person convicted of any violation requiring~~
19 ~~registration pursuant to Section 290 shall not reside within two~~
20 ~~miles of any elementary or secondary school. A violation of this~~
21 ~~section shall be a misdemeanor.~~

22 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the only costs that may be incurred by a local agency or school~~
25 ~~district will be incurred because this act creates a new crime or~~
26 ~~infraction, eliminates a crime or infraction, or changes the~~
27 ~~penalty for a crime or infraction, within the meaning of Section~~
28 ~~17556 of the Government Code, or changes the definition of a~~
29 ~~crime within the meaning of Section 6 of Article XIII B of the~~
30 ~~California Constitution.~~